

HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Appeal No.34 of 2015**

Chhattisgarh State Ware Housing Corporation, through its Managing Director, 22 Anand Nagar, Raipur (CG)

---- Petitioner

Versus

M/s. Leotronic Scales Pvt. Ltd., A company registered under the Companies Act, 1956, having its registered office at 47 Height Market, Amritsar (Punjab) through its authorised signatory and general power of attorney holder Shri Ram Krishna Paramhans, aged about 37 years, S/o Shri K.N.R. Naidu, at present working as General Manager, South East Region, R/o House No.5-3, Durga Nagar, Near Venkatsai Hospital, Dilsukh Nagar, Hyderabad (Telengana)

---- Respondent

For Appellant	:	Mr.B.D.Guru, Advocate
For Respondent	:	Mr.Arvind Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

19/07/2017

1. This is an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'Act of 1996') challenging the order passed by learned District Judge rejecting the appellant's application under Section 34(2) of the Act of 1996.
2. The dispute arisen between the parties was referred to the Sole Arbitrator and the Sole Arbitrator passed an award deciding the issue between the parties and awarded ₹ 12,56,210/- to the respondent along with 9% interest from 18.7.2007 till the date of payment.
3. Feeling aggrieved against that order, the appellant preferred

an application under Section 34 (2) of the Act of 1996 before the learned District Judge. Learned District Judge, Raipur by the impugned order rejected the application finding no merit, against which, this arbitration appeal has been filed.

4. Learned counsel for the appellant would submit that the appellant has failed to establish the ground under Section 34(2) of the Act of 1996 that the finding recorded by learned District Judge is perverse and contrary to law, therefore, the impugned order liable to be set aside.
5. On the other hand, learned counsel for the respondent would support the impugned order.
6. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
7. A careful perusal of the impugned order would show that the District Judge has clearly recorded a finding that the appellant has failed to establish the ground under Section 34(2) of the Act of 1996 and further considered the finding recorded by the Sole Arbitrator qua issue No.1 and 2 framed by learned Sole Arbitrator and came to the conclusion that the finding of the Sole Arbitrator that on account of wrongly termination of contract for work of 10 places the respondent is entitled for compensation in accordance with law and such finding is based on material available on record.

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8. The Supreme Court in the matter of **McDermott International Inc. Vs. Burn Standard Co. Ltd.**¹ has held as under:-

“The 1996 Act makes a provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness. Intervention of the court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc. The Court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So, scheme of the provision aims at keeping the supervisory role of the court at minimum level and this can be justified as parties to the agreement make a conscious decision to exclude the court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it.”

9. In view of the aforesaid principle of law laid down by the Supreme Court in the aforesaid judgment (supra), if the facts of the present case are examined, it is quite vivid that the Court while hearing an application under Section 34(2) of the Act of 1996 the Court has no jurisdiction to substitute its own view in place of Arbitrators view and it cannot sit in appeal over the conclusion of arbitrator and reexamine or reappraise evidence which had been already considered by the arbitrator.

10. The finding recorded by learned Arbitrator qua the issue No.1 and 2 is on finding of fact based on record. I do not find any patent illegality in the said finding. Learned District Judge is absolutely justified in rejecting the application filed under Section 34(2) of the Act of 1996.

¹(2006) 2 Arb.L.R. 498

11. Accordingly, the appeal is liable to be and is hereby dismissed leaving the parties to bear their cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-